

**Testimony of Marshall Clement**  
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**Michigan State Judiciary Committee**  
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My name is Marshall Clement, and I am a Project Director at the Council of State Governments Justice Center ("Justice Center"). The Justice Center is a national, nonprofit, and nonpartisan organization that works with policymakers to develop data-driven, consensus-based strategies that increase public safety. Our assistance to Michigan has been made possible with support from the U.S. Department of Justice, The Pew Charitable Trusts, and the State of Michigan.

In 2008, Governor Jennifer M. Granholm, Senate Majority Leader Michael D. Bishop and Speaker of the House Andy Dillon requested assistance from the Justice Center to analyze Michigan's criminal justice system with a bipartisan, inter-branch working group.

I would like to acknowledge the efforts of Chairman Kuipers for serving on this working group, and the leadership of Senator Cropsey for co-chairing this working group along with Representative Smith. We convened over 100 roundtable discussions and interviews with various stakeholders in Michigan's criminal justice system and collected data from multiple sources to inform the analyses, including the Department of Corrections, State Police, Prosecuting Attorney's Association of Michigan, Department of Education, Department of Labor and Economic Growth, and the Commission on Law Enforcement Standards.

In January 2009, the working group released a report summarizing our findings as well as report outlining a policy framework based on this data-driven foundation that would increase public safety and reduce spending on corrections. In May of last year, the working group endorsed the policy framework and agreed to move forward with enacting the various policy options.

I'd like to briefly summarize our analysis, the policy framework, and then explain how Senate Bill 827 would help Michigan reduce crime, reduce recidivism, and reduce spending on corrections.

## **Analysis of Crime, Community Corrections, and Sentencing Policies in Michigan**

### Crime

We found that Michigan's violent crime rate is the highest in the Great Lakes region. In addition, the likelihood that someone committing a violent crime in Michigan will be caught is low and appears to be declining. For example, only 37 percent of murders resulted in an arrest in Michigan, compared with 61 percent nationally. Between 2000 and 2007, arrests for violent crimes declined 22 percent, even though the number of violent crimes reported to police was roughly the same.

We found that backlogs at the state's crime lab delay criminal investigations and undermine the swift and certain apprehension of offenders.

Finally, we found that Michigan has the fewest local law enforcement personnel per capita among the states in the Great Lakes region.

### Community Corrections

We found that in Michigan, people convicted of felonies are more likely to be sentenced to county jail than is the case in other states. Twenty-three percent of felony convictions in Michigan result in a prison sentence, compared with 40 percent nationally. That doesn't mean offenders are getting off easy, however, it just means they are going to jail rather than prison. In Michigan and nationally, 70 percent of convicted felons receive a prison or jail sentence.

We found the majority of people arrested for violent and property crimes in Michigan in 2007 were not on felony probation or parole at the time of their arrest. Of all arrests in Michigan in 2007 for murder, rape, robbery, aggravated assault, burglary, larceny, motor vehicle theft, and arson, only 7 percent involved felony probationers and 3 percent involved parolees. In other words, 90 percent of these crimes are being committed by people not under supervision.

## Sentencing Policies

We found that in the past ten years, state spending on corrections increased from 16 to 23 percent of state general fund expenditures. This is three times higher than the national average of 7 percent.

After comparing sentences in Michigan to other states by looking at similar types of offenders, we found that violent offenders serve more time in prison in Michigan, but not because of the state's sentencing guidelines or the sentences handed down by judges. Instead, the overwhelming difference appears to be attributed to the unique level of discretion available to the state's parole board. The average prisoner serves 127 percent of their minimum sentence imposed by the court before they are first paroled.

We found that many offenders are released from prison in Michigan without any post-release supervision. More than 1,500 offenders were released in 2009 to no community supervision because these offenders have served the maximum period of imprisonment allowed by statute.

Based on these and other findings from our analysis, we developed a policy framework along with the working group to deter crime, lower recidivism, and reduce spending on corrections.

### **Policy Framework to Deter Crime, Lower Recidivism, and Reduce Spending on Corrections**

#### Strategy 1: Deter Criminal Activity

- Support local law enforcement's targeted crime-fighting strategies.
- Reduce crime lab backlogs to speed investigations and solve a greater percentage of crimes.
- Increase employment opportunities for at-risk young adults.

#### Strategy 2: Lower Recidivism

- Reduce rates of re-arrest among probationers.
  - Revise Michigan's Community Corrections Act to focus resources on probationers who are high-risk according to an objective risk instrument. Senate Bill 826 was the language developed by the working group to move forward on this policy option.

- Respond to probation violations with swift, certain, and proportional sanctions
- Expand employment opportunities for high risk probationers/parolees whose rates of unemployment we know exceed 50 percent.

### Strategy 3: Reduce Spending on Corrections

- Ensure that offenders in prison serve 100-120% of their court-imposed minimum sentence
- Limit time served on first parole revocations for condition violations
- Ensure supervision for everyone released from prison.

### **Senate Bill 827**

Senate bill 827 is a bipartisan proposal developed by the inter-branch working group that incorporates the elements of the policy framework that require statutory changes.

#### Senate Bill 827:

- strengthens Michigan's truth in sentencing law,
- reduces recidivism and increases public safety, and
- reduces spending on corrections by \$35 million over four years.

### Truth-in-Sentencing and Certainty for Victims

In Michigan, prisoners generally serve 100% of the court imposed minimum sentence, but the parole board can require prisoners to serve up to their maximum sentence which is set by statute and on average is 3 times as long.

Victims currently have no certainty about how long a prisoner will actually serve and if the parole board chose to hold people until their maximum sentence, the prison population could increase as high as 100,000. Uncertainty for victims also means uncertainty about the state's prison population and the amount of money state taxpayers will have to spend on corrections.

Senate Bill 827 strengthens truth-in-sentencing by ensuring that prisoners serve no less than 100 percent and no more than 120 percent of their court imposed minimum sentence, unless they pose a high risk to

public safety or have a maximum sentence of life. This bill also would reduce disparities in sentence lengths and provide more certainty to victims about the time that an offender will actually serve, and reinforces the role of judges in determining how long offenders serve rather than with the parole board.

#### Reduce Recidivism and Increase Public Safety

Current law permits the most dangerous offenders to be held to their maximum sentence date and then released without any supervision in the community, creating a huge public safety risk. Senate Bill 827 would ensure everyone leaving prison received at least nine months of intensive supervision.

#### Reduce Spending on Corrections

While state spending on corrections is very high, Michigan continues to have the highest violent crime rate in the region because investments in police, crime labs, and prevention programs are sorely lacking.

In the state's 2010 budget, some progress was made. The state invested Recovery Act resources in local law enforcement and reinvested savings from department of corrections to expand reentry programs.

Senate Bill 827 would not be applied retroactively, no one would be released early and therefore the policy would have a gradual impact on the prison population and the corrections budget. By 2014, the policies would generate \$35 million in savings within the department of corrections budget.

More importantly, the bill would avert dramatic growth in the prison population and corrections budget should the parole board decide in the future to require offenders to serve a greater percentage of their minimum sentence.

#### **Summary**

In summary, after two years of data-driven analyses, and bipartisan, inter-branch meetings of the working group, Senate Bill 827 would move the state forward on adopting this policy framework and enable this and future legislatures to continue the reinvestments the state has already begun making in deterring crime and reducing recidivism among probationers. Thank you for the opportunity to testify here today and I would be happy to answer any questions the committee may have.